

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Seattle
FILE NUMBER: 200400357
REGULATORY PROJECT MANAGER: Randel Perry **Date:** 6/2/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office _Y_ (Y/N) **Date:** _____
 At the project site _Y_ (Y/N) **Date:** 5/14/04

PROJECT LOCATION INFORMATION:
State: Washington
County: Skagit
Center coordinates of site by latitude & longitudinal coordinates: Lat 48° 27' 12.6" Long. 122° 18' 10.4"
Approximate size of site/property (including uplands & in acres): 13 acres
Name of waterway or watershed: Skagit River

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands		X							
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	X				
Is or would be used as habitat by other migratory birds that cross state lines?	X				
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?		X			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary __ Or **Approved** X.

ADDITIONAL INFORMATION SUPPORTING NJD: The approximately 13 acre site is a roughly rectangular lot with a general down slope trend to the west, toward and into the Skagit River 100-year floodplain. Elevations range from approximately 100' along the east side to 20' along the west side of the lot. Total acreage of wetlands on site is 1.66 acres (wetlands A, B, and D); acreage of wetlands to be impacted by proposed development is 1.44 acres. Wetlands in question are in the western half of the site. The site is bounded on the west by a Skagit County Drainage District (#20) maintained ditch. Site has been historically used for livestock and contains remnants of that operation (old barn, watering and silage troughs, etc.).

Wetlands A, B, and D are located on the slope at the central-western portion of the property. Active seeps and surface inundation were observed in wetlands B and D. Surface water was contained at the center of the wetlands with no flow observed leaving the wetlands. Wetland A had saturation to the surface with no inundation. No signs of a discrete surface water conveyance (channels, signs of regular sheet flow, etc.) were observed that could have conveyed water from wetlands A, B and D down slope to wetland C or to the drainage ditch. Samples taken at the time of the site visit indicates that wetlands "A" "B", "C", and "D" are surrounded

on all sides by upland soils and vegetation communities. Wetlands designated “A”, “B”, and “D” do not have a discrete surface water connection to other navigable or interstate waters of the U. S or tributaries of waters of the U. S that can be determined at this time. Wetlands are not used for interstate commerce including recreational activities, commercial fishing activities, or used for industrial purposes.

Wetland C occupies a bench near the bottom of the slope and had areas of saturation to the surface. Wetland C is separated from the down slope drainage ditch by a raised ridge (4-6 feet high) along its western edges that appears to be remnants of sidecasting from the ditch construction. The southern edge of wetland C is adjacent to an upland strip (3-5 feet high) that separates it from the track of an abandoned dirt road leading down to the drainage ditch. No signs of a surface water conveyance carrying water out of wetland C was noted. No soil samples were taken from the original material under the berm on the west edge of wetland “C”. Wetland C lies in the 100-year floodplain of the Skagit River and is adjacent to the unnamed tributary (drainage ditch) of the Skagit River but for a man-made berm constructed during ditch excavation and maintenance. Wetland “C” is considered a jurisdictional water of the U. S.